

**IN THE UNITED STATES DISTRICT COURT  
OF THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

**ERIC VON DRAKE**

**V.**

**LIBERTY MUTUAL AUTOMOTIVE  
INSURANCE COMPANY, ET AL.**

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**No. 5:06CV24**

**MEMORANDUM ORDER**

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration. No objections to the Report and Recommendation were filed. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court. Plaintiff's above-entitled and numbered cause of action against Liberty Mutual Insurance Company, Alice Tatum Andrews, Lisa D. Hull, Jessica Stettler, and Hartford Insurance Company is dismissed without prejudice.

In the Report and Recommendation dated April 25, 2006, the Magistrate Judge noted that Defendants Sekhavat, Bernstein, and Bazar had filed answers. Therefore, the Court allowed these defendants fifteen days from April 21, 2006 to address Plaintiff's Motion for Non-Suit, if they desire, and specifically whether the case against them should be dismissed with or without prejudice. On May 5, 2006, Sekhavat, Bernstein, and Bazar filed a "Stipulation to Plaintiff's Voluntary Motion to Dismiss (Non-Suit)." In their stipulation, these defendants request Plaintiff's claims against them be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii) without prejudice to Plaintiff.

The Court is of the opinion Plaintiff's case against these defendants should also be dismissed without prejudice. Accordingly, it is hereby

**ORDERED** that Plaintiff's above-entitled and numbered cause of action is **DISMISSED WITHOUT PREJUDICE**.

**SIGNED this 16th day of May, 2006.**

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE